



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0565

Introduced 2/17/2005, by Sen. Louis S. Viverito

SYNOPSIS AS INTRODUCED:

225 ILCS 450/0.03
225 ILCS 450/16

from Ch. 111, par. 5500.03
from Ch. 111, par. 5517

Amends the Illinois Public Accounting Act. Provides a definition of "Peer Review Administrator". Requires firms and sole practitioners providing accounting services under the Act to undergo a peer review as a condition of renewing a license unless an exemption applies. Allows the Department of Financial and Professional Regulation to adopt rules. Provides penalties for failure to comply with remedial actions determined appropriate by the Peer Review Administrator. Requires the firm or sole practitioner to pay for the costs of the peer review. Provides that the peer review proceedings, records, reports, and other documents are privileged and provides exceptions to the privilege. Provides for the peer review year of combined or divided firms or sole practitioners. Grants civil immunity except for reckless or willful misconduct. Effective immediately.

LRB094 10891 LJB 41439 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Accounting Act is amended by
5 changing Sections 0.03 and 16 as follows:

6 (225 ILCS 450/0.03) (from Ch. 111, par. 5500.03)

7 (Section scheduled to be repealed on January 1, 2014)

8 Sec. 0.03. Definitions. As used in this Act, unless the
9 context otherwise requires:

10 (a) "Registered Certified Public Accountant" means any
11 person who has been issued a registration under this Act as a
12 Registered Certified Public Accountant.

13 (b) "Licensed Certified Public Accountant" means any
14 person licensed under this Act as a Licensed Certified Public
15 Accountant.

16 (c) "Committee" means the Public Accountant Registration
17 Committee appointed by the Director.

18 (d) "Department" means the Department of Professional
19 Regulation.

20 (e) "Director" means the Director of Professional
21 Regulation.

22 (f) "License", "licensee" and "licensure" refers to the
23 authorization to practice under the provisions of this Act.

24 (g) "Peer review program" means a study, appraisal, or
25 review of one or more aspects of the professional work of an
26 individual ~~a person~~ or firm in the practice of public
27 accounting to determine the degree of compliance by the
28 individual or firm with generally accepted accounting
29 principles and auditing standards and other generally accepted
30 technical standards, conducted by persons who hold current
31 licenses to practice public accounting under the laws of this
32 or another state and who are not affiliated with the individual

1 ~~or firm being reviewed certified or licensed under this Act,~~
2 ~~including quality review, peer review, practice monitoring,~~
3 ~~quality assurance, and similar programs undertaken voluntarily~~
4 ~~or as a prerequisite to the providing of professional services~~
5 ~~under government requirements, or any similar internal review~~
6 ~~or inspection that is required by professional standards.~~

7 (h) "Review committee" means any person or persons
8 conducting, reviewing, administering, or supervising a peer
9 review program.

10 (i) "University" means the University of Illinois.

11 (j) "Board" means the Board of Examiners established under
12 Section 2.

13 (k) "Registration", "registrant", and "registered" refer
14 to the authorization to hold oneself out as or use the title
15 "Registered Certified Public Accountant" or "Certified Public
16 Accountant", unless the context otherwise requires.

17 (l) "Peer Review Administrator" means the American
18 Institute of Certified Public Accountants, the Illinois CPA
19 Society, and other organizations that the Department may
20 designate that meet the requirements of subsection (f) of
21 Section 16 of this Act and other rules that the Department may
22 adopt.

23 (Source: P.A. 92-457, eff. 7-1-04; 93-683, eff. 7-2-04.)

24 (225 ILCS 450/16) (from Ch. 111, par. 5517)

25 (Section scheduled to be repealed on January 1, 2014)

26 Sec. 16. Expiration and renewal of licenses; renewal of
27 registration; continuing education.

28 (a) The expiration date and renewal period for each license
29 issued under this Act shall be set by rule.

30 (b) Every holder of a license or registration under this
31 Act may renew such license or registration before the
32 expiration date upon payment of the required renewal fee as set
33 by rule.

34 (c) Every application for renewal of a license by a
35 licensed certified public accountant who has been licensed

1 under this Act for 3 years or more shall be accompanied or
2 supported by any evidence the Department shall prescribe, in
3 satisfaction of completing, each 3 years, not less than 120
4 hours of continuing professional education programs in
5 subjects given by continuing education sponsors registered by
6 the Department upon recommendation of the Committee. Of the 120
7 hours, not less than 4 hours shall be courses covering the
8 subject of professional ethics. All continuing education
9 sponsors applying to the Department for registration shall be
10 required to submit an initial nonrefundable application fee set
11 by Department rule. Each registered continuing education
12 sponsor shall be required to pay an annual renewal fee set by
13 Department rule. Publicly supported colleges, universities,
14 and governmental agencies located in Illinois are exempt from
15 payment of any fees required for continuing education sponsor
16 registration. Failure by a continuing education sponsor to be
17 licensed or pay the fees prescribed in this Act, or to comply
18 with the rules and regulations established by the Department
19 under this Section regarding requirements for continuing
20 education courses or sponsors, shall constitute grounds for
21 revocation or denial of renewal of the sponsor's registration.

22 (d) Licensed Certified Public Accountants are exempt from
23 the continuing professional education requirement for the
24 first renewal period following the original issuance of the
25 license.

26 Notwithstanding the provisions of this subsection (c), the
27 Department may accept courses and sponsors approved by other
28 states, by the American Institute of Certified Public
29 Accountants, by other state CPA societies, or by national
30 accrediting organizations such as the National Association of
31 State Boards of Accountancy.

32 Failure by an applicant for renewal of a license as a
33 licensed certified public accountant to furnish the evidence
34 shall constitute grounds for disciplinary action, unless the
35 Department in its discretion shall determine the failure to
36 have been due to reasonable cause. The Department, in its

1 discretion, may renew a license despite failure to furnish
2 evidence of satisfaction of requirements of continuing
3 education upon condition that the applicant follow a particular
4 program or schedule of continuing education. In issuing rules
5 and individual orders in respect of requirements of continuing
6 education, the Department in its discretion may, among other
7 things, use and rely upon guidelines and pronouncements of
8 recognized educational and professional associations; may
9 prescribe rules for the content, duration, and organization of
10 courses; shall take into account the accessibility to
11 applicants of such continuing education as it may require, and
12 any impediments to interstate practice of public accounting
13 that may result from differences in requirements in other
14 states; and may provide for relaxation or suspension of
15 requirements in regard to applicants who certify that they do
16 not intend to engage in the practice of public accounting, and
17 for instances of individual hardship.

18 The Department shall establish by rule a means for the
19 verification of completion of the continuing education
20 required by this Section. This verification may be accomplished
21 through audits of records maintained by licensees; by requiring
22 the filing of continuing education certificates with the
23 Department; or by other means established by the Department.

24 The Department may establish, by rule, guidelines for
25 acceptance of continuing education on behalf of licensed
26 certified public accountants taking continuing education
27 courses in other jurisdictions.

28 (e) For renewals on and after January 1, 2009, as a
29 condition for granting a renewal license to firms and sole
30 practitioners who provide services requiring a license under
31 this Act, the Department shall require that the firm or sole
32 practitioner undergo a peer review covering the immediately
33 preceding 3-year period, accepted by a Peer Review
34 Administrator in accordance with this Section, unless the firm
35 or sole practitioner is exempted under the provisions of
36 subsection (i) of this Section. Each firm or sole practitioner

1 shall submit to the Department with its renewal application a
2 letter from the Peer Review Administrator stating the date on
3 which the peer review was satisfactorily completed.

4 A new firm or sole practitioner not subject to subsection
5 (l) shall undergo its first peer review within 18 months after
6 it is granted its initial license.

7 The rules of the Department may lengthen any of the periods
8 between required peer reviews prescribed in this subsection (e)
9 in the manner, under the circumstances, or with respect to
10 firms that the Department in its discretion may consider
11 appropriate.

12 (f) The Department may adopt rules establishing guidelines
13 for peer reviews, which shall do all of the following:

14 (1) Require that a peer review be conducted pursuant to
15 a program and standards of the American Institute of
16 Certified Public Accountants. The Department shall approve
17 only Peer Review Administrators that the Department finds
18 comply with established standards for performing and
19 reporting on peer reviews.

20 (2) Require that a peer review be conducted by a
21 reviewer that is independent of the firm reviewed and
22 approved by the Peer Review Administrator under
23 established standards.

24 (3) Other than in the peer review process, prohibit the
25 use or public disclosure of information obtained by the
26 reviewer, the Peer Review Administrator, or the Department
27 during or in connection with the peer review process. The
28 requirement that information not be publicly disclosed
29 shall not apply to a hearing before the Department that the
30 firm or sole practitioner requests be public or to the
31 information described in paragraph (3) of subsection (i) of
32 this Section.

33 (g) If a firm or sole practitioner does not comply with any
34 remedial actions determined appropriate by the Peer Review
35 Administrator, the Peer Review Administrator shall refer the
36 matter to the Department to determine if further action under

1 this subsection (g) is warranted. The Department may at its
2 discretion or shall upon submission of a written application by
3 the firm or sole practitioner hold a hearing to determine
4 whether the firm or sole practitioner complies with the
5 appropriate professional standards and practices. The hearing
6 shall be confidential and shall not be open to the public
7 unless requested by the firm or sole practitioner. If the
8 Department after conducting a hearing determines that the firm
9 or sole practitioner complies with the appropriate
10 professional standards and practices, it shall issue an order
11 requiring the Peer Review Administrator to take any necessary
12 action to record and implement the Department's determination
13 and to restore the status of compliance of the firm or sole
14 practitioner. However, if the Department after conducting the
15 hearing determines that the firm or sole practitioner does not
16 comply with the appropriate professional standards and
17 practices, it may issue an order that requires both of the
18 following:

19 (1) Remedial action, which may include any or all of
20 the following:

21 (A) requiring the sole practitioner or employees
22 of the firm to complete general or specific continuing
23 professional education courses;

24 (B) requiring the sole practitioner or firm to
25 undergo a peer review more frequently than every 3
26 years; or

27 (C) other remedial action as recommended by the
28 Committee.

29 (2) An affidavit from the firm or sole practitioner,
30 submitted within the time specified by the Department,
31 indicating completion of the required remedial actions.

32 (h) The firm or sole practitioner reviewed shall pay for
33 any peer review performed. The Peer Review Administrator may
34 charge a fee to each firm and sole practitioner sufficient to
35 cover its costs of administering the peer review program.

36 (i) A firm or sole practitioner shall be exempt from the

1 requirement to undergo a peer review if:

2 (1) Within 3 years before the date of application for
3 renewal licensure, the sole practitioner or firm has
4 undergone a peer review conducted in another state or
5 foreign jurisdiction that meets the requirements of
6 paragraphs (1) and (2) of subsection (f) of this Section.
7 The sole practitioner or firm shall submit to the
8 Department a letter from the organization administering
9 the most recent peer review stating the date on which the
10 peer review was completed.

11 (2) The sole practitioner or firm satisfies all of the
12 following conditions:

13 (A) during the preceding 2 years, the firm has not
14 accepted or performed any audit or review engagement;

15 (B) within the next 2 years, the firm does not
16 intend to accept or perform any audit or review
17 engagement; and

18 (C) the firm agrees to notify the Department within
19 30 days of accepting an audit or review engagement and
20 to undergo a peer review within 18 months of accepting
21 an audit or review engagement.

22 (3) For reasons of personal health, military service,
23 or other good cause, the Department determines that the
24 sole practitioner or firm is entitled to an exemption,
25 which may be granted for a period of time not to exceed 12
26 months.

27 (j) In any civil action, arbitration, or administrative
28 proceeding, regardless of whether a licensee is a party
29 thereto, all of the following shall apply:

30 (1) The proceedings, records (including, without
31 limitation, letters of acceptance, peer review reports,
32 letters of comment, and letters of response), and working
33 papers related to the peer review process of any reviewer,
34 administering organization, or board member are privileged
35 and not subject to discovery, subpoena, or other means of
36 legal process and may not be introduced into evidence.

1 (2) No employee, member, or agent of a Peer Review
2 Administrator or reviewer shall be permitted or required to
3 testify as to any matters produced, presented, disclosed,
4 or discussed during or in connection with the peer review
5 process or be required to testify to any finding,
6 recommendation, evaluation, opinion, or other actions of
7 any person in connection with the peer review process.

8 (3) No privilege exists under this subsection (j):

9 (A) for information presented or considered in the
10 peer review process that was otherwise available to the
11 public;

12 (B) for materials not prepared in connection with a
13 peer review merely because the materials subsequently
14 are presented or considered as part of the peer review
15 process; or

16 (C) in connection with an administrative
17 proceeding or related civil action brought for the
18 purpose of enforcing this Section.

19 (k) If a peer review report indicates that a firm or sole
20 practitioner complies with the appropriate professional
21 standards and practices set forth in the rules of the
22 Department, the Peer Review Administrator shall destroy all
23 working papers and documents, other than report-related
24 documents, related to the peer review within 90 days after
25 issuance of the letter of acceptance by the Peer Review
26 Administrator. If a peer review letter of acceptance indicates
27 that corrective action is required, the Peer Review
28 Administrator may retain documents and reports related to the
29 peer review until completion of the next peer review or other
30 agreed-to corrective actions.

31 (l) In the event the practices of 2 or more firms or sole
32 practitioners are merged or otherwise combined, the surviving
33 firm shall retain the peer review year of the largest firm, as
34 determined by the number of accounting and auditing hours of
35 each of the practices. In the event that the practice of a firm
36 is divided or a portion of its practice is sold or otherwise

1 transferred, any firm or sole practitioner acquiring some or
2 all of the practice that does not already have its own review
3 year shall retain the review year of the former firm. In the
4 event that the first peer review of a firm that would otherwise
5 be required by this subsection (l) would be less than 12 months
6 after its previous review, a review year shall be assigned by
7 Peer Review Administrator so that the firm's next peer review
8 occurs after not less than 12 months of operation, but not
9 later than 18 months of operation.

10 (m) No Peer Review Administrator or reviewer, or any of its
11 members, employees, agents, or any person furnishing
12 professional counsel or services shall be civilly liable by
13 reason of the performance of any duty, function, or activity
14 under this Section so long as the person or entity has not
15 engaged in recklessness or willful misconduct.

16 (Source: P.A. 92-457, eff. 7-1-04; 93-683, eff. 7-2-04.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.